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United States

Circuit Court of Appeals

For the Ninth Circuit. /

LUTHER WEEDIN, as Commissioner of Immigration at the Port of Seattle, Washington, Appellant,

vs.

WONG JUN,

Appellee.

Transcript of Record.

Upon Appeal from the United States District Court for the Western District of Washington, Northern Division.

FILED  
APR 10 1906  
FBI



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Circuit Court of Appeals

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vs.

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF COUNSEL.

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Seattle, Washington,  
Attorney for Appellant.

DONALD G. GRAHAM, Esq., 310 Federal Build-  
ing, Seattle, Washington,  
Attorney for Appellant.

HUGH C. TODD, Esq., 323 Lyon Building, Seattle,  
Washington,  
Attorneys for Appellees. [1\*]

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In the District Court of the United States for the  
Western District of Washington, Northern Di-  
vision.

No. 8778.

In the Matter of the Application of LEE SHEE  
and WONG JUN for a Writ of Habeas  
Corpus.

PETITION FOR WRIT OF HABEAS CORPUS.

To the Honorable JEREMIAH NETERER, Dis-  
trict Judge:

Comes now Lee Shee and Wong Jun, petitioners by  
and through Wong On, their next friend, and peti-  
tion this court to issue a writ of habeas corpus to in-  
quire into the cause of the detention of said pe-  
titioners by Hon. Luther Weedin, Commissioner of

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\*Page-number appearing at foot of page of original certified Tran-  
script of Record.

Immigration at Seattle, Washington, and show to the Court as follows:

I.

That Lee Shee and Wong Jun applied for admission into the United States from China as members of an exempt class under the treaty between the Government of the United States and the Government of China and the laws of the United States, and are now detained at the United States Immigration Station of Seattle, Washington, by the Hon. Luther Weedin, Commissioner of Immigration, at Seattle, Washington, in the proceedings from their applications to be admitted into the United States.

II.

That the said Lee Shee and Wong Jun are imprisoned and restrained of their liberty by the said Commissioner of Immigration at said Immigration Detention Station; that they have not been committed and are not detained by virtue of any judgment, decree, final order of process issued by a court or Judge of the United States, in a case where such courts or Judges have exclusive jurisdiction under the laws of the United States, or have acquired exclusive jurisdiction by commencement of legal proceedings in such a court, nor are they detained by virtue of the final judgment or decree of a court of competent [2] tribunal of civil or criminal jurisdiction or the final order of such a tribunal made in the special proceedings instituted for any cause except to punish them for contempt; or by virtue of an execution or



other process issued upon such a judgment, decree or final order; or by virtue of a warrant issued from any court upon an indictment or information.

### III.

That the cause or pretense of the imprisonment and restraint of the said Lee Shee and the said Wong Jun is that the said Commissioner ruled that the said Lee Shee and the said Wong Jun were alien Chinese persons, ineligible to citizenship under Section 13 Subdivision "C" of the Immigration Act of 1924, not being members of any of the exempt classes of Chinese entitled to come into or remain in the United States, and accordingly denied them admission, from which findings appeals were taken to the Secretary of Labor, which said appeals were thereafter dismissed by the Secretary of Labor on the 5th day of September, 1924.

### IV.

That the decision of the above-named officials denying said petitioners admission into the United States is based upon the ground and for the reason that said officials interpret the new Immigration Act of 1924 in such a manner that the said above-named petitioners, who would otherwise be admissible into the United States, as to make them absolutely now inadmissible to the United States, which said ruling is illegal, wrongful, contrary to the laws of the United States and in violation of the treaty between the Government of the United States and the Government of China respecting and governing the admission and exclusion of the subjects of China into and from the United States.

## V.

That the facts developed by said hearings in the case of the said Lee Shee by said Immigration officials show that the said Lee Shee is a citizen of China of the Chinese race, having arrived in Seattle, Washington, on the S. S. "President Jefferson," July 9th, 1924, being forty-eight (48) years of age, occupation, housewife, and married to Chu Yee Ping, who is engaged in the Chinese mercantile business in Portland, Oregon, and that the said Immigration officials admit that [3] he maintains an exempt mercantile status within the meaning of the laws of the United States and the treaty between the Government of China and the Government of the United States, which exempt status permits him to remain in the United States although a citizen of China; that the domicile of the petitioner's said husband is in Portland, Oregon; that said petitioner has one daughter and one son now residing in the United States, and that said petitioner is applying for admission into the United States to join her husband and children, thus seeking to establish her domicile with them in the United States.

## VI.

That the facts developed by said hearings in the case of the said Wong Jun by said Immigration officials show that the said Wong Jun is a minor, occupation, student, and unmarried; that the said petitioner is applying for admission into the United States to join her father, Wong Dai Teung, a citizen of China of the Chinese race who is engaged in

business in Philadelphia, Pennsylvania, and that he enjoys the status of a merchant and is exempt under the laws of the United States and the treaty between the Government of China and the Government of the United States; that said petitioner is seeking admission to the United States as the minor daughter of said Wong Dai Teung, and that if admitted into the United States she will join her father's household, she being a dependent member thereof, thus making her domicile the domicile of her said father.

#### VII.

That the evidence presented and testimony taken at said hearings established the above and foregoing facts as set forth in paragraphs 5 and 6 herein, and there was no evidence or testimony to the contrary; that said decision is arbitrary and contrary to law; that there is absolutely no evidence in the record to disprove the right of these petitioners to be admitted into the United States; that said decision, aside from being contrary to law and said treaty, shows that said Immigration officials greatly abuse their discretion holding that said petitioners were not entitled to be admitted into the United States. [4]

#### VIII.

That the said Lee Shee and Wong Jun are being restrained of their liberty without due process of law in violation of the provisions of the Constitution of the United States and the laws and treaties governing such cases made and provided; that they are wrongfully, illegally and arbitrarily restrained

of their liberty, and that the said immigration officials are about to deport them, and that unless this Court intervenes they will be deported forthwith.

WHEREFORE your petitioners pray that a writ of habeas corpus may issue directed to Hon. Luther Weedin, Commissioner of Immigration, at Seattle, Washington, commanding him to have the bodies of the said Lee Shee and Wong Jun before Hon. Jeremiah Neterer, Judge of the United States District Court, Western District of Washington, Northern Division, at the Federal Court Building in Seattle, Washington, at such time as in said writ may be named, to do and receive what shall then and there be considered concerning the said Lee Shee and Wong Jun, together with the time and cause of their detention; and

FURTHER that an order to show cause be issued by said Court ordering the said Hon. Luther Weedin, Commissioner of Immigration, at Seattle, Washington, to appear and show cause in said court on the 8th day of September, A. D. 1924, at 10 o'clock A. M., why said writ should not issue and to do and receive what shall then and there be considered concerning the said Lee Shee and the said Wong Jun together with the time and cause of their detention.

Dated at Seattle, Washington, September 6th, 1924.

WONG ON,  
Petitioner.

HUGH C. TODD,  
Attorney for Petitioners. [5]

State of Washington,  
County of King,—ss.

Wong On, being first duly sworn, on oath deposes and says: That he is the next friend of Lee Shee and Wong Jun, the petitioners in the above-entitled matter; that he makes this petition and verification for and on their behalf on account of and for the reason that said petitioners do not write in English; that this affiant knows the contents of said petition and believes the same to be true, and in behalf of said petitioners has full authority to sign and verify the same.

WONG ON.

Subscribed and sworn to before me this 6th day of September, 1924.

[Seal]

W. D. LAMBUTH,

Notary Public in and for the State of Washington,  
Residing at Seattle.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Sep. 6, 1924. F. M. Harshberger, Clerk. By \_\_\_\_\_, Deputy. [6]

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In the District Court of the United States for the  
Western District of Washington, Northern  
Division.

No. 8778.

Corpus.

In the Matter of the Application of LEE SHEE  
and WONG JUN for a Writ of Habeas

ORDER TO SHOW CAUSE WHY WRIT OF  
HABEAS CORPUS SHOULD NOT BE  
ISSUED.

On reading and filing the petition of Lee Shee and Wong Jun duly signed and verified, whereby it appears that the said Lee Shee and Wong Jun are wrongfully and illegally imprisoned and restrained of their liberty by Hon. Luther Weedin, Commissioner of Immigration at the United States Immigration at Seattle, Washington, and stating wherein the illegality exists, from which it appears that a writ of habeas corpus ought to issue:

NOW, THEREFORE, it is by this Court ORDERED, ADJUDGED and DECREED that the said Hon. Luther Weedin, Commissioner of Immigration at Seattle, Washington, be directed to show cause before me in the courtroom of said court on the 8th day of September, A. D. 1924, at 10 o'clock A. M. of said day, why said writ should not issue, and to do and receive what shall then and there be considered concerning the said Lee Shee and Wong Jun, together with the time and cause of their detention.

Done in open court this 6th day of September, 1924.

JEREMIAH NETERER,  
Judge.

[Endorsed]: Filed in the United States District Court, Western District of Washington,

Northern Division. Sep. 6, 1924. F. M. Harshberger, Clerk. By \_\_\_\_\_, Deputy.

RETURN ON SERVICE OF WRIT.

United States of America,  
Western District of Wash.,—ss.

I hereby certify and return that I served the annexed order on the therein named Luther Weedin, Com. of Immigration, by handing to and leaving a true and correct copy thereof with him personally at Seattle, in said District on the 6th day of Sept., A. D. 1924.

E. B. BENN,  
U. S. Marshal.  
By E. E. Gaskill,  
Deputy.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Sep. 8, 1924. F. M. Harshberger, Clerk. By \_\_\_\_\_, Deputy. [7]

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United States District Court, Western District of  
Washington, Northern Division.

No. 8778.

In the Matter of the Application of LEE SHEE  
and WONG JUN for a Writ of Habeas Corpus.

## RETURN TO WRIT OF HABEAS CORPUS.

To the Honorable JEREMIAH NETERER, Judge of the District Court of the United States for the Western District of Washington:

I, Luther Weedin, to whom the annexed writ of habeas corpus is directed have now here, before the court, the bodies of Lee Shee and Wong Jun, therein named, as therein commanded, and I hereby certify that I am United States Commissioner of Immigration at Seattle, Washington; that the said Lee Shee and Wong Jun are now detained and excluded from the United States by this respondent, as alien persons not entitled to admission under the laws of the United States, to wit; as immigrants and aliens, ineligible to citizenship and excluded under the provisions of Section 13, Subdivisions "a" and "c" of the Act of Congress of May 26, 1924, known as the Immigration Act of 1924; that the said Lee Shee and Wong Jun were detained by this respondent at the time they arrived in the United States, to wit; the 9th day of July, 1924, as alien persons, not entitled to admission under the laws of the United States, and subject to exclusion and deportation under the laws of the United States, pending a decision on the applications for admission to the United States of Lee Shee as the alien Chinese wife of a resident Chinese merchant, lawfully domiciled in the United States, and of Wong Jun as the alien minor son of a resident Chinese merchant, lawfully domiciled in the United States; that at a hearing before the Board of Special Inquiry, the



said Lee Shee and Wong Jun were denied admission by the said Board of Special Inquiry, because it appeared [8] that under Subdivisions "a" and "c" of Section 13 of the Immigration Act of 1924, said Lee Shee and Wong Jun were inadmissible to the United States, and their applications for admission to the United States were denied; that said Lee Shee and Wong Jun appealed from the decision of the Board of Special Inquiry to the Secretary of Labor, and thereafter the decision of the Board of Special Inquiry was affirmed by the Secretary of Labor's and the Commissioner of Immigration's Board of Review; that since the final decision of the Special Board of Review, respondent has and now holds and detains said Lee Shee and Wong Jun for exclusion and deportation from the United States, as alien persons not entitled to admission under the laws of the United States, and subject to exclusion and deportation under the laws of the United States.

That the original records of the Department of Labor, Bureau of Immigration, both on the hearing before the Board of Special Inquiry at Seattle, Washington, and on the submission of the records to the Commissioner of Labor at Washington, D. C. in the matter of the applications of said Lee Shee and Wong Jun for admission to the United States, are hereto attached and made a part and parcel of this return, as fully and completely as though set forth herein in full.

WHEREFORE, respondent prays that the petition for writ of habeas corpus be denied.

LUTHER WEEDIN,  
Commissioner of Immigration.  
By JOHN L. ZURBRICK,  
Asst. Commissioner. [9]

United States of America,  
Western District of Washington,  
Northern Division,—ss.

John L. Zurbrick, being first duly sworn, on oath deposes and says:

That he is Assistant Commissioner of Immigration, and makes this verification for and on behalf of Luther Weedin, Commissioner of Immigration named in the foregoing return; that he has read said return, knows the contents thereof, and believes the same to be true.

JOHN L. ZURBRICK.

Subscribed and sworn to before me this 15th day of September, 1924.

[Seal] S. M. H. COOK,  
Deputy Clerk, U. S. District Court, Western District of Washington.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Sep. 15, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [10]

In the District Court of the United States for  
Western District of Washington, Northern  
Division.

No. 8778.

In the Matter of the Application of LEE SHEE  
and WONG JUN for a Writ of Habeas  
Corpus.

**ORDER FOR WRIT OF HABEAS CORPUS.**

The above-entitled matter having come on for hearing in the above-entitled court on the 15th day of September, A. D. 1924, before Honorable Jeremiah Neterer, Judge, upon the order to show cause heretofore issued out of this court based upon the petition herein, the Government being represented by Donald G. Graham, Assistant United States, Attorney, and the said petitioners being represented by their attorney, Hugh C. Tood, and the matter having been then taken under advisement by the Court, and the Court being fully advised in the premises, did upon the 23d day of September, 1924, file his decision therein, holding that said petitioners had been denied a fair hearing as set forth in said petition, and further ordered that the writ as prayed for in said petition shall issue, returnable October 1st, 1924, from which it appears that a writ of habeas corpus ought to issue.

NOW, THEREFORE, it is by this Court ORDERED, ADJUDGED and DECREED, that a writ of habeas corpus issue out of and under the

seal of this court, directed to the said Luther Weedin, Commissioner of Immigration at Seattle, Washington, commanding him to have the bodies of the said Lee Shee and Wong Jun before me in the courtroom of said court on the 1st day of October, A. D. 1924, at 10 o'clock A. M. of said day, to do and receive what shall then and there be considered concerning the said Lee Shee and Wong Jun, together with the time and cause of their detention, and that he then and there have the said writ.

Done in open court this 25th day of September, A. D. 1924.

JEREMIAH NETERER,  
Judge.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Sep. 25, 1924. F. M. Harshberger, Clerk. By S. E. Leitch, Deputy. [11]

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United States District Court, Western District of  
Washington, Northern Division.

No. 8778.

In the Matter of the Application of LEE SHEE  
and WONG JUN for a Writ of Habeas  
Corpus.

RETURN TO WRIT AS TO WONG JUN.

To the Honorable JEREMIAH NETERER, Judge of the District Court of the United States for the Western District of Washington:

Comes now John L. Zurbrick, Assistant United States Commissioner of Immigration at Seattle, Washington, and for return to the writ of habeas corpus heretofore served upon him, herewith produces in court the body of Wong Jun, and shows and certifies to this Court that further investigation in regard to the status and relationship of said Wong Jun has shown that Wong Chai Chong, the father of petitioner, is not a merchant within the meaning of the laws and treaties of the United States, and that the petitioner, Wong Jun, is, therefore, not entitled to admission to the United States as the minor daughter of an alien Chinese merchant lawfully domiciled in the United States, under the laws and treaties of the United States; that the statement of facts, except as herein modified, contained in the return to the order to show cause, heretofore filed herein, is true and correct, and by reference thereto is made a part of this return the same as though set forth in full.

WHEREFORE, having made a full and complete return and certificate as to the manner and authority by which the said Wong Jun is held, John L. Zurbrick, Assistant United States Commissioner of Immigration, who makes this return,

prays this Court for an order quashing the writ of habeas corpus heretofore entered.

JOHN L. ZURBRICK,

Assistant U. S. Commissioner of Immigration.

[12]

United States of America,  
Western District of Washington,  
Northern Division,—ss.

John L. Zurbrick, being first duly sworn, on oath deposes and says: That he is Assistant United States Commissioner of Immigration at Seattle, Washington; that he has read the foregoing Amended Return, knows the contents thereof and believes the same to be true.

JOHN L. ZURBRICK.

Subscribed and sworn to before me this 2d day of January, 1925.

[Seal]

J. P. SANDERSON,

Notary Public in and for the State of Washington,  
Residing at Seattle.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Jan. 2, 1925. Ed M. Lakin, Clerk. By S. E. Leitch, Deputy. [13]

United States District Court, Western District of  
Washington, Northern Division.

No. 8778.

In the Matter of the Application of LEE SHEE  
and WONG JUN, for a Writ of Habeas  
Corpus.

MOTION TO DISMISS AS TO WONG JUN.

Comes now Thos. P. Revelle, United States At-  
torney for the Western District of Washington,  
on behalf of the United States Commissioner of  
Immigration, and respectfully moves the Court  
for an order dismissing the writ of habeas corpus,  
heretofore granted to the petitioner, Wong Jun,  
and dismissing the habeas corpus proceedings  
herein instituted on behalf of Wong Jun.

This motion is based upon the records and files  
herein.

THOS. P. REVELLE,  
United States Attorney.

DONALD G. GRAHAM,  
Assistant United States Attorney.

[Endorsed]: Filed in the United States Dis-  
trict Court, Western District of Washington,  
Northern Division. Jan. 2, 1925. Ed. M. Lakin,  
Clerk. By S. E. Leitch, Deputy. [14]

In the United States District Court for the Western District of Washington, Northern Division.

No. 8778.

In the Matter of the Application of WONG JUN  
for Writ of Habeas Corpus.

DECISION (ON MOTION TO DISMISS WRIT  
AS TO WONG JUN).

Filed January 15, 1925.

The petitioner, a Chinese, arrived at the port of Seattle, and sought admission as the minor child of a lawfully domiciled merchant. The exclusion is predicated upon the holding of the district court of the District of Columbia in *U. S. ex rel. Mak Fou Cho vs. Davis*, Secretary of Labor, 52 Wash. Law Rep. 306. Upon petition this court held that the wives and minor children of lawfully domiciled merchants were admissible, and remanded the case to the Immigration Service to determine the question of admissibility under the Chinese Exclusion Law. On such examination she was excluded because the father is not a merchant. It is conceded that the petitioner was a minor at the time of her arrival, and is the "lawful blood child" of the man she claims is her father, who was admitted as a merchant in 1910 and has since resided here. It is shown that the father is a partner and the assistant manager of one of the largest restaurants in Philadelphia, the Wong Kow Company,



an executive officer of authority, does not act as cook or waiter and performs no manual labor. This company covers the 2d and 3d floors at 1309 Market Street, value of furnishings is \$140,000, carries \$70,000 insurance, and does an annual business of \$130,000 to \$140,000.

HUGH C. TODD, Esq., of Seattle, Wash., Attorney for Applicant.

DONALD G. GRAHAM, Esq., Asst. U. S. Attorney, of Seattle, Wash., Attorney for United States.

JEREMIAH NETERER, District Judge.

Is the father a merchant within the provisions of the Exclusion Act?

A manager may be said to be one who has general control over and conducts and directs the affairs of a concern, and has knowledge of all its business and property, and who can act in emergencies on his own responsibility. It affirmatively appears in the record that the father is assistant manager; in the absence of the manager has entire control of the concern. He does no manual labor. He orders goods, oversees and directs the business in the absence of the manager and assists him when he is present.

This case is clearly distinguished from the Mak Fou Cho case, *supra*. Chief Justice McCoy in that case said the petitioner “\* \* take no part in buying and selling and that his powers are not those of an assistant manager.” The Department has, [15] I understand, uniformly held heretofore

that an assistant manager, as is the petitioner, is classed as a merchant. Two minor sons of the petitioner have heretofore been admitted and are now in the United States.

The Exclusion Law defines the words "laborer" and "merchant." Sec. 2, Act Nov. 3, 1893, 28 Stats. page 7.

"The words 'laborer' or 'laborers' \* \* shall be construed to mean both skilled and unskilled manual laborers, including Chinese employed in mining, fishing, huckstering, peddling, laundryman, or those engaged in taking, drying, or otherwise preserving shell or other fish for home consumption or exportation."

" \* \* A merchant is a person engaged in buying and selling merchandise \* \* and \* \* does not engage in the performance of any manual labor except such as is necessary in the conduct of his business as such merchant."

The Act, for its purposes, divides the Chinese, except those who come to teach, study, travel, or for curiosity, etc., into two classes, "laborers," those performing manual labor, *excluded*; "merchants," those not performing manual labor, *admissible*. "Merchants," as construed by the department and as employed in the Act, is more comprehensive than the meaning given by lexicographers. The restricted meaning of "merchant" under the Bankruptcy Act,—*Toxaway Hotel Co. vs. Smithers & Co.*, 216 U. S. 439,—in view of the provisions of the Exclusion Act and department

rule, obviously has no application. A banker, by the department rules, is a "merchant." By the same token the manager or assistant manager of a restaurant, who performs no manual labor, is a "merchant." It seems obvious that the purchasing of supplies and selling them cooked, if the party does not do the manual labor of preparing them or serving them, is as truly merchandising as selling goods over the counter, or receiving money on deposit and selling exchange or discounting commercial paper. The acts of the petitioner in *Ah Yow*, 50 Fed. 561, are not limited, as here, and therefore cannot be authority. It is not necessary that the partner's name appear in the firm title,—*Tom Hong vs. U. S.*, 193 U. S. 517.

Motion denied and writ granted.

JEREMIAH NETERER,  
U. S. District Judge. [16]

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United States District Court, Western District of  
Washington, Northern Division.

No. 8778.

In the Matter of the Application of LEE SHEE  
and WONG JUN for a Writ of Habeas Cor-  
pus.

NOTICE OF APPEAL.

To Wong Jun and Hugh C. Todd, Attorney for  
Wong Jun:

YOU, AND EACH OF YOU, are hereby noti-  
fied that Luther Weedin, as United States Com-

missioner of Immigration at the port of Seattle, respondent above named, hereby, and now appeals from that certain order, judgment and decree made herein by the above-entitled court on the 16th day of January, 1925, adjudging, holding, finding and decreeing that the above-named petitioner for a writ of habeas corpus be discharged from the custody of the said United States Commissioner of Immigration and from the whole thereof, to the United States Circuit Court of Appeals for the Ninth Circuit.

THOS. P. REVELLE,  
United States Attorney.

DONALD G. GRAHAM,  
Assistant United States Attorney.

Service accepted 2/3/25.

HUGH C. TODD,  
Atty. for Petitioner.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Feb. 5, 1925. Ed. M. Lakin, Clerk. By S. M. H. Cook, Deputy. [17]

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United States District Court, Western District of  
Washington, Northern Division.

No. 8778.

In the Matter of the Application of LEE SHEE  
and WONG JUN for a Writ of Habeas Cor-  
pus.

PETITION FOR APPEAL.

Luther Weedon, United States Commissioner of Immigration at the port of Seattle, Washington, the respondent above named, deeming himself aggrieved by the order and judgment entered herein on the 16th day of January, 1925, discharging the petitioner, Wong Jun, from the custody of the Commissioner of Immigration at the port of Seattle, Washington, does hereby appeal from the said order and judgment to the United States Circuit Court of Appeals for the Ninth Circuit, and prays that a transcript and record of proceedings and papers upon which said order and judgment is made, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Ninth Judicial District of the United States.

THOS. P. REVELLE,

United States Attorney.

DONALD G. GRAHAM,

Assistant United States Attorney.

Service accepted 2/3/25.

HUGH C. TODD,

Atty. for Petitioner.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Feb. 5, 1925. Ed. M. Lakin, Clerk. By S. M. H. Cook, Deputy. [18]

United States District Court, Western District of  
Washington, Northern Division.

No. 8778.

In the Matter of the Application of LEE SHEE  
and WONG JUN for a Writ of Habeas Cor-  
pus.

### ASSIGNMENT OF ERRORS.

#### I.

The Court erred in holding and deciding that the petitioner, Wong Jun, did not have a fair and impartial trial before the United States Inspector of Immigration conducting her hearing.

#### II.

The Court erred in holding and deciding that a writ of habeas corpus be awarded to the petitioner, Wong Jun.

#### III.

The Court erred in denying the motion of the Commissioner of Immigration to dismiss the writ of habeas corpus granted to the petitioner, Wong Jun.

#### IV.

The Court erred in holding and deciding that the father of the petitioner, Wong Jun, is a merchant within the meaning of the Chinese Exclusion Laws and the Treaties of the United States.

#### V.

The Court erred in holding, deciding and adjudging that the petitioner, Wong Jun, be discharged

from the custody of Luther Weedin, Commissioner of Immigration at the port of Seattle, Washington. [19]

VI.

The Court erred in deciding, holding and adjudging that the petitioner, Wong Jun, was not subject to exclusion and deportation, but was entitled to come and remain in the United States.

THOS. P. REVELLE,  
United States Attorney.

DONALD G. GRAHAM,  
Assistant United States Attorney.

Service accepted 2/3/25.

HUGH C. TODD,  
Atty. for Petitioner.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Feb. 5, 1925. Ed. M. Lakin, Clerk. By S. M. H. Cook, Deputy. [20]

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United States District Court, Western District of  
Washington, Northern Division.

No. 8778.

In the Matter of the Application of LEE SHEE  
and WONG JUN for a Writ of Habeas Cor-  
pus.

ORDER ALLOWING APPEAL.

Now, to wit, on the 2d day of February, 1925, it is ORDERED that the appeal of the United States

Commissioner of Immigration in respect to Wong Jun, petitioner for writ of habeas corpus, named herein, be allowed, as prayed for.

Done in open court this 5 day of February, 1925.

JEREMIAH NETERER,  
United States District Judge.

O. K. as to form.

HUGH C. TODD,  
Atty. for Petitioner.

[Endorsed]: Filed in the United States District Court, Western District of Washington; Northern Division. Feb. 5, 1925. Ed. M. Lakin, Clerk. By S. M. H. Cook, Deputy. [21]

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United States District Court, Western District of  
Washington, Northern Division.

No. 8778.

In the Matter of the Application of LEE SHEE  
and WONG JUN for a Writ of Habeas Cor-  
pus.

STIPULATION.

IT IS HEREBY STIPULATED AND AGREED by and between Hugh C. Todd, Esquire, attorney for petitioners above named, and Thos. P. Revelle and Donald G. Graham, attorneys for respondent, Luther Weedin, United States Commissioner of Immigration, that



WHEREAS, petitioner, Lee Shee, applied for admission to the United States as the lawful wife of a resident alien Chinese merchant; and

WHEREAS, in accordance with the ruling of the Court heretofore made in the case, "In the Matter of the Application of Goon Dip, on Behalf of Ng Jin Sing, et al., for a Writ of Habeas Corpus," No. 8749, now pending in this court, a writ of habeas corpus was granted to said Lee Shee, on the ground that the Immigration Act of 1924 does not prohibit the entry of wives of alien Chinese merchants; and

WHEREAS, the identical question of law involved is now before the Supreme Court of the United States, under writ of certiorari, directed to the United States Circuit Court of Appeals for the Ninth Circuit, and

WHEREAS, it will entail a matter of considerable time and expenditure of funds to prosecute the appeal in the matter of said Lee Shee by the United States Commissioner of Immigration, which expenditure of time and funds will be unnecessary in view of the ultimate decision of said question of law by the United States Supreme Court, it is stipulated that the petitioner, Lee [22] Shee, heretofore granted a writ of habeas corpus, may remain at liberty under bond until the question involved in her case is finally determined by the United States Supreme Court, and that the disposition of the case of said Lee Shee shall abide the said determination by the United States Supreme Court.

Dated at Seattle, Washington, this 2 day of February, 1925.

THOS. P. REVELLE,  
 United States Attorney,  
 DONALD G. GRAHAM,  
 Assistant United States Attorney,  
 Attorneys for Respondent.  
 HUGH C. TODD,  
 Attorney for Petitioner.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Feb. 5, 1925. Ed. M. Lakin, Clerk. By S. M. H. Cook, Deputy. [23]

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United States District Court, Western District of Washington, Northern Division.

No. 8778.

In the Matter of the Application of LEE SHEE and WONG JUN for a Writ of Habeas Corpus.

**ORDER FOR TRANSMISSION OF ORIGINAL RECORD.**

Upon stipulation of counsel, it is by the Court ORDERED, and the Court does hereby ORDER that the Clerk of the above-entitled court transmit with the appellate record in said cause the original file and record of the Department of Labor, covering the deportation proceedings against the petitioner, Wong Jun, which was filed with the re-

spondent's return in the above cause, directly to the clerk of the Circuit Court of Appeals, in order that the said original immigration file may be considered by the Circuit Court of Appeals in lieu of a certified copy of said record.

Done in open court this 5 day of February, 1925.

JEREMIAH NETERER,  
United States District Judge.

O. K. as to form.

HUGH C. TODD,  
Atty. for Petitioner.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Feb. 5, 1925. Ed. M. Lakin, Clerk. By S. M. H. Cook, Deputy. [24]

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United States District Court, Western District of  
Washington, Northern Division.

No. 8778.

In the Matter of the Application of LEE SHEE  
and WONG JUN for a Writ of Habeas Cor-  
pus.

PRAECIPE OF APPELLANT FOR TRAN-  
SCRIPT OF RECORD ON APPEAL.

To the Clerk, of the above-entitled Court:

You will please prepare and duly authenticate the transcript and following portions of the record in the above-entitled case, for appeal of the

said appellant, heretofore allowed to the United States Circuit Court of Appeals for the Ninth Circuit:

1. Petition for writ of habeas corpus.
2. Order to show cause.
3. Return to order to show cause, as to Wong Jun.
4. Order for writ of habeas corpus.
5. Return to writ as to Wong Jun.
6. Amended return to writ as to Wong Jun.
7. Motion to dismiss writ as to Wong Jun.
8. Decision of Honorable Jeremiah Neterer.
9. Petition for appeal.
10. Notice of appeal.
11. Assignment of errors.
12. Order allowing appeal.
13. Citation.
14. Stipulation dated February 2, 1925.
15. Order for transmission of record.

THOS. P. REVELLE,  
 United States Attorney,  
 DONALD G. GRAHAM,  
 Assistant United States Attorney,  
 Attorneys for Appellant.

[Endorsed]: Filed in the United States District Court, Western District of Washington, Northern Division. Feb. 5, 1925. Ed M. Lakin, Clerk. By S. M. H. Cook, Deputy. [25]

In the District Court of the United States for  
Western District of Washington, Northern  
Division.

No. 8778.

In the Matter of the Application of LEE SHEE  
and WONG JUN for a Writ of Habeas Cor-  
pus.

CERTIFICATE OF CLERK U. S. DISTRICT  
COURT TO TRANSCRIPT OF RECORD.

United States of America,  
Western District of Washington,—ss.

I, Ed. M. Lakin, Clerk of the United States Dis-  
trict Court for the Western District of Washing-  
ton, do hereby certify this typewritten transcript  
of record, consisting of pages numbered from 1 to  
28 inclusive, to be a full, true, correct and com-  
plete copy of so much of the record, papers and  
other proceedings in the above and foregoing en-  
titled cause as is required by praecipe of counsel  
filed and shown herein, as the same remain of  
record and on file in the office of the clerk of said  
District Court at Seattle, and that the same con-  
stitute the record on appeal herein from the judg-  
ment of said United States District Court for the  
Western District of Washington to the United  
States Circuit Court of Appeals for the Ninth  
Circuit.

I further certify the following to be a full, true  
and correct statement of all expenses, costs, fees

and charges incurred and paid in my office by or on behalf of the appellant for making record, certificate or return to the United States Circuit Court of Appeals for the Ninth Circuit in the above-entitled cause, to wit: [26]

Clerk's fees (Sec. 828, R. S. U. S.) for making record, certificate or return, 51 folios at 15¢ .....	\$7.65
Certificate of Clerk to transcript of record, 4 folios at 15¢ .....	.60
Seal to said certificate .....	.20
Certificate of Clerk to original exhibits ....	.30
Seal to said certificate .....	.20
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Total .....	\$8.95

I hereby certify that the above cost for preparing and certifying record, amounting to \$8.95, will be included as constructive charges against the United States in my quarterly account to the Government of fees and emoluments for the quarter ending March 31, 1925.

I further certify that I herewith attach and transmit the original citation issued in this cause.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said District Court, at Seattle, in said District, this 9th day of March, 1925.

ED. M. LAKIN,

Clerk United States District Court, Western District of Washington.

By S. M. H. Cook,  
Deputy. [27]

United States District Court, Western District of  
Washington, Northern Division.

No. 8778.

In the Matter of the Application of LEE SHEE  
and WONG JUN for a Writ of Habeas Cor-  
pus.

CITATION.

United States of America, as to Wong Jun,  
GREETING:

WHEREAS, Luther Weedin, United States Commissioner of Immigration at the port of Seattle, Washington, has lately appealed to the United States Circuit Court of Appeals for the Ninth Circuit, from the judgment, order and decree lately, on to wit, the 16th day of January, 1925, rendered in the District Court of the United States for the Western District of Washington, made in favor of you, adjudging and decreeing that said petitioner be discharged from the custody of said Luther Weedin, as United States Commissioner of Immigration at the port of Seattle, Washington, and setting her at large.

You are therefore cited to appear before the United States Circuit Court of Appeals, in the city of San Francisco, State of California, within the time fixed by statute, to do and receive what may obtain to justice to be done in the premises.

Given under my hand in the city of Seattle, in the Ninth Circuit, this — day of February, in the year of our Lord nineteen hundred twenty-five,

and the Independence of the United States the one hundred forty-ninth.

JEREMIAH NETERER,  
United States District Judge.

Service accepted—2/3/25.

HUGH C. TODD. [28]

Filed in the United States District Court, Western District of Washington, Northern Division. Feb. 5, 1925. Ed. M. Lakin, Clerk. By S. M. H. Cook, Deputy.

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[Endorsed]: No. 4522. United States Circuit Court of Appeals for the Ninth Circuit. Luther Weedin, as Commissioner of Immigration at the Port of Seattle, Washington, Appellant, vs. Wong Jun, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Western District of Washington, Northern Division.

Filed March 11, 1925.

F. D. MONCKTON,  
Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

By Paul P. O'Brien,  
Deputy Clerk.